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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/027,592	12/19/2001	Tony P. Chiang	M-11466-8C US	1875
7590 11/26/2003			EXAMINER	
Brian D. Ogonowksy Patent Law Group 2635 North First Street Suite 223 San Jose, CA 95134-2049			FULLER, ERIC B	
			ART UNIT	PAPER NUMBER
			1762	

DATE MAILED: 11/26/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

A2

<b>Advisory Action</b>	<b>Application No.</b> 10/027,592	<b>Applicant(s)</b> CHIANG ET AL.	
	<b>Examiner</b> Eric B Fuller	<b>Art Unit</b> 1762	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 08 October 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY [check either a) or b)]**

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: see attached Office Action.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attached Office Action.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 1-22.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

Applicant's amendment has not been entered because it would raise the new issue of "translating a feature substantially circumscribing a periphery of the substrate, forming a variable aperture" was absent from currently pending claims 1-22, and therefore would require further search and consideration.

### ***Response to Arguments***

Applicant has argued that the above noted limitation is not a new issue. In support, applicant by telephone has pointed to claims 20-22 as previously containing the limitation, such that a new search would not be required. This is not found convincing. It is the position of the examiner that the proposed limitation is more specific than the limitations of claims 20-22, thus changing the metes and bounds of the claim, as is suggested by the prior art used to reject claims 20-22 not being sufficient in rejecting the proposed limitation.

Claim 20 reads to move a shield defining a periphery of the chamber. The valves that are arranged at the periphery of the chamber in Tanaka read on being shields. The valves of Tanaka would not read on "translating a feature substantially circumscribing a periphery of the substrate". Therefore, since the added limitation overcomes the art made of record, it must be a new issue, thus requiring further search and consideration.

Claim 21 and 22 read to move a wall portion of the chamber, which depend on claims 1 and 19, respectively. The perforated wall portion of Gruenwald reads on moving a wall portion. This perforated disk, however, does not read on "translating a feature substantially circumscribing a periphery of the substrate". Therefore, since the added limitation overcomes the art made of record, it must be a new issue, thus requiring further search and consideration.

All other arguments are moot, as they are directed to amendments that have not been entered.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric B Fuller whose telephone number is (703) 308-6544. The examiner can normally be reached on Mondays through Thursdays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Shrive Beck, can be reached at (703) 308-2333. The fax phone number for the organization where this application or proceeding is assigned is 703 872-9310.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.



EBF

**MICHAEL BARR**  
**PRIMARY EXAMINER**

